UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,420	07/10/2001	Stephen C. Hilla	112025-0476	7670

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EXAMINER
VO, LILIAN

ART UNIT	PAPER NUMBER
2195	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No.	Applicant(s)
	09/902,420	HILLA ET AL.
	Examiner	Art Unit	
	Lilian Vo	2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 March 2005*.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 - 20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 - 20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some *   c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1 – 20 are pending.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   Claims 1 – 3 and 5 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Lin et al. (US Pat. Application Publication 2002/0073211, hereinafter Lin).

4.   Regarding **claim 1**, Lin discloses a load balancing system for distributing tasks to

processor resources of a processor pool, the system comprising:

a memory organized into at least one region of blocks, each block configured to store a

session (fig. 5);

an interface for coupling the memory to the processor resource, whereby the processor

resource accesses the memory blocks to update information associated with the sessions (figs. 1

and 3, page 4, paragraph 38);

an access monitor coupled to the interface, wherein the access monitor recognizes and

tracks memory cycles associated with the memory blocks during a specified period of time and

collects statistics associated with the sessions (fig. 3 and page 5, paragraphs 46, 47, and page 8,

paragraph 65: webserver creates a monitoring thread (heartbeat) to monitor the application

servers once each session begins to determine whether the application servers terminate the

connection with the webserver. Page 8, paragraph 67: webserver monitors the heartbeat of an

application server...while monitoring the heartbeat for the socket pool, the webserver waits for a

predetermined time for the heartbeat to indicate that the application server is still active); and

a central resource coupled to the access monitor, and assign tasks to the processor

resources (figs. 1 - 3 and page 4, paragraphs 37 and 38, page 6, paragraph 53).

Lin however did not clearly disclose the step of the load balancer assigns tasks to

webservers according to the session information receiving from the state servers. Instead, Lin

discloses that the load balancer distributes tasks to the webservers by using the traffic flow rate

measurement for each individual webserver connected to the load balancer (page 4, paragraphs

37 – 38, page 6, paragraph 53), in which the state server then creates a monitoring thread to the

webserver and monitors the session between the webserver and the browser and the state server

stores the session which is established when an application server is connected (page 6,

paragraph 56). It would have been obvious for one of an ordinary skill in the art, at the time the

invention was made to recognize that the load balancer assigns tasks to webservers based on the

information, which indirectly obtain from the state servers.

5.   Regarding **claim 2**, Lin discloses the logic for recognizing a new session and designating

a memory block for that session (fig. 5 and page 5, paragraphs 44 and 47).

6.   Regarding **claim 3**, Lin discloses the access monitor comprises:

memory address logic that recognizes address fields defining the memory blocks (fig. 5);

memory control logic that recognizes memory cycles being executed on the memory blocks (page 5, paragraph 47); and

a session table with activity information entries associated with each session (page 5, paragraph 44).

7.   Regarding **claim 5**, Lin discloses that when the specified period of time elapses, the session table is cleared (fig. 9, page 8, paragraphs 66 - 67).

8.   **Claims 6 – 20** are rejected on the same ground as stated in claims 1 – 3 and 5 above.

9.   Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al. (US Pat. Application Publication 2002/0073211, hereinafter Lin) as applied to claim 1 above, and in view of Bass et al. (US 6,449,576, hereinafter Bass).

10.   Regarding **claim 4**, Lin did not clearly disclose the access monitor is embodied as an application specific integrated circuit. Nevertheless, Bass discloses a monitor infrastructure for systematically providing local and remote access to signals within an integrated circuit device (col. 8, lines 50 – 52). It would have been obvious for an ordinary skill in the art, at the time the invention was made, to implement Lin's access monitor as an application specific integrated circuit similar to Bass's system so that it can be useful by providing a systematic and comprehensive IC assessment device which also includes network traffic monitoring capabilities (Bass: col. 1, lines 50 – 52)

Response to Arguments

11.   Applicant's arguments filed 3/15/05 have been fully considered but they are not

persuasive for the reasons set forth below.

12.   Regarding applicant's remark that Lin does not make obvious applicant's claimed

invention relating to an access monitor coupled to the interface, wherein the access monitor

recognizes and tracks memory cycles associated with the memory blocks during a specified

period of time and collects statistics associated with the session (page 11, last paragraph and

page 12, last paragraph – page 13, 1st paragraph), the examiner disagrees. Lin clearly discloses

such teaching in fig. 3 and page 5, paragraphs 46, 47, and page 8, paragraph 65: webserver

creates a monitoring thread (heartbeat) to monitor the application servers once each session

begins to determine whether the application servers terminate the connection with the webserver.

Page 8, paragraph 67: webserver monitors the heartbeat of an application server...while

monitoring the heartbeat for the socket pool, the webserver waits for a predetermined time for

the heartbeat to indicate that the application server is still active.

        With respect to applicant's remark that Lin is completely silent concerning tracking

memory cycles, and instead merely monitors the number of tasks assigned to each webserver

(page 12, 1st paragraph), the examiner disagrees. Lin monitors the number of tasks assigned to

each webserver according to the availability of the webserver (page 5, paragraph 47). Lin tracks

the session occurring with the user. In other words, the session activities also involve the

memory usage. Therefore, Lin directly if not indirectly tracking memory usage as claimed.

13.   In response to applicant's argument that the references fail to show certain features of

applicant's invention (page 12, 1st paragraph and 4th paragraph), it is noted that the features upon

which applicant relies (i.e., the active or inactive status of the tasks) are not recited in the rejected

claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993).

14.   Applicant's arguments (paeg 13, 3rd paragraph) fail to comply with 37 CFR 1.111(b)

because they amount to a general allegation that the claims define a patentable invention without

specifically pointing out how the language of the claims patentably distinguishes them from the

references.

Conclusion

15.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

16.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The

examiner can normally be reached on Monday - Thursday, 7:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application should be

directed to the TC 2100 Group receptionist at 571-272-2100.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

                                        Lilian Vo
                                        Examiner
                                        Art Unit 2127

lv
June 7, 2005   MENG-AL T. AN
                                        SUPERVISORY PATENT EXAMINER
                                        TECHNOLOGY CENTER 2100